



PATENT
Attorney Docket No. 09812.0156-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Mari Horiguchi)	Group Art Unit: 2165
)	
Application No.: 09/761,416)	Examiner: Vincent F. Boccio
)	
Filed: January 16, 2001)	
)	
For: INFORMATION PROCESSING)	Confirmation No.: 4785
DEVICE, INFORMATION)	
PROCESSING METHOD AND)	
MEDIUM)	

Mail Stop After Final

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action mailed March 3, 2008, and the Advisory Action mailed June 17, 2008. This Request is being filed concurrently with a Notice of Appeal and a petition for a one month extension of time.

I. Requirements For Submitting a Pre-Appeal Brief Request for Review

Applicants have met each of the requirements for a pre-appeal brief review of rejections set forth in an Office Action. The application has been at least twice rejected. Applicants file a Notice of Appeal with this Request, and have not yet filed an Appeal Brief. Applicants submit this Pre-Appeal Brief Request for Review that is five (5) or less

or less pages in length and sets forth legal or factual deficiencies in the rejections. See Official Gazette Notice, July 12, 2005.

II. Status of the Claims

In the Final Office Action, the Examiner rejected claims 1-15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,182,094 to Humpleman et al. ("*Humpleman*"), U.S. Patent No. 5,526,130 to Kim ("*Kim*"), U.S. Patent No. 6,177,931 to Alexander et al. ("*Alexander*"), and U.S. Patent No. 6,002,394 to Schein et al. ("*Schein*").

III. The rejection of Claims 1-15 under 35 U.S.C. §103(a) as being unpatentable over Humpleman, Kim, Alexander, and Schein

Applicants respectfully traverse the rejection of claims 1-15 under 35 U.S.C. § 103(a). A *prima facie* case of obviousness has not been established.

Independent claim 1 recites a device including, for example, a "control means [] for cancelling the recording reservation if double booking occurs and if the recording reservation is a preliminary reservation, wherein an entry of the cause of the double booking occurred subsequent to an entry of the preliminary reservation." *Humpleman, Kim, Alexander, and Schein* fail to disclose at least the claimed control means.

Alexander discloses:

[i]f the EPG detects an overlap in date, time and duration between the newly received instruction on the one hand and one or more of the remaining record instructions in the Record List, the EPG formats a message to the viewer describing the conflict . . . the EPG will prevent entry of conflicting instructions into the Record List. The EPG will require that the viewer revise the record instructions to eliminate the conflict. In one embodiment, if the EPG detects that one recording

instruction pertains to a "one occurrence" program that conflicts in date, time and duration with a recording instruction to record a "regularly recorded" program, the EPG would format an on screen message that would suggest to the viewer that the viewer select the "one occurrence" program to be recorded. In another embodiment, the EPG automatically "decides" to override the "regularly record" instruction and will record the "one occurrence" program with no further intervention by the viewer.

One way to resolve a recording instructions conflict is to cho[o]se an alternative occurrence of the conflicting program for recording . . . the viewer can highlight a particular program in the EPG and request a list of all occurrences of that program for the week. The viewer can then instruct the EPG to record an alternative occurrence of the program.

(col. 12, line 60 - col. 13, line 19). None of "requir[ing] that the viewer revise the record instructions to eliminate the conflict," "automatically 'decid[ing]' to override the 'regularly record' instruction (non-once occurrence program) and record the 'one-occurrence' program' with no further intervention by the user," and allowing "the viewer . . . [to] instruct the EPG to record an alternative occurrence of the (non-once occurrence) program" can constitute "cancelling the recording reservation . . . if the recording reservation is a preliminary reservation, wherein an entry of the cause of the double booking occurred subsequent to a time of entry of the preliminary reservation," as recited in claim 1. A "'regularly record' instruction" (non-once occurrence program) does not constitute "a preliminary reservation," as recited in claim 1.

Humpleman, Kim, and Schein fail to cure the deficiencies of *Alexander*.

Humpleman, Kim, and Schein fail to disclose "cancelling the recording reservation if double booking occurs," as recited in claim 1.

Accordingly, *Humpleman, Kim, Alexander, and Schein*, alone or in combination, fail to render the subject matter recited in claim 1 obvious. Independent claims 8 and 5,

though of different scope than claim 1, are allowable for at least the same reasons as claim 1. Claims 2-7 and 9-14 depend from claims 1 and 8, respectively, and are thus allowable for at least the same reasons as claims 1 and 8.

IV. Conclusion


In view of the foregoing, claims 1-15 are in condition for allowance.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 3, 2008

By: 

Eli Mazour
Reg. No. 59,318